

LEGISLATURE OF NEBRASKA  
NINETY-EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 910**

Introduced by Baker, 44

Read first time January 8, 2004

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to the Nebraska Railway Council; to amend  
2 section 74-1413, Reissue Revised Statutes of Nebraska; to  
3 provide for payment of per diems and expenses through the  
4 Department of Roads; to provide an operative date; to  
5 repeal the original section; and to declare an emergency.  
6 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 74-1413, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   74-1413. (1) The Nebraska Railway Council is created as  
4 a body politic and corporate, not a state agency, but an  
5 independent instrumentality. The State of Nebraska shall not be  
6 responsible for the debts, contracts, general obligations, or  
7 liabilities of the council or its members or agents, including tort  
8 claims. The council shall consist of eight members to be appointed  
9 by the Governor with the approval of a majority of the Legislature  
10 as follows:

11                   (a) One light-density rail line shipper;

12                   (b) One railroad management employee;

13                   (c) One public service commissioner;

14                   (d) Two members of the general public. One member from  
15 the general public shall be a person experienced in private or  
16 public finance, and the other member from the general public shall  
17 be a person experienced in marketing;

18                   (e) One railroad maintenance-of-way employee;

19                   (f) One representative from the Department of Economic  
20 Development; and

21                   (g) One representative from the Department of  
22 Agriculture.

23                   The Director-State Engineer shall serve as an ex officio  
24 member of the council.

25                   (2) The Governor shall appoint council members for  
26 four-year terms. In appointing the original council members, the  
27 Governor shall (a) appoint the light-density rail line shipper and  
28 one of the members of the general public for one-year terms, (b)

1 appoint the railroad management employee and one of the members of  
2 the general public for two-year terms, (c) appoint the public  
3 service commissioner and the railroad maintenance-of-way employee  
4 for three-year terms, and (d) appoint the representatives from the  
5 Department of Agriculture and the Department of Economic  
6 Development for four-year terms. The Governor shall fill vacancies  
7 caused by any reason, except that an appointment to fill a vacancy  
8 shall be only for the remainder of the unexpired term. The  
9 Governor may remove any council member for just cause.

10 (3) The council members shall have an interest in and  
11 knowledge of railroads and railroad-related functions. A council  
12 member shall abstain from voting on any decision or policy of the  
13 council if the decision or policy will result in any financial  
14 benefit or detriment to him or her, any member of his or her  
15 family, or any business with which he or she is associated and the  
16 benefit or detriment is distinguishable from the effects of the  
17 actions on the public generally or a broad segment of the public.

18 (4) ~~To assist the transition from the Branch Rail~~  
19 ~~Revitalization Council to the Nebraska Railway Council,~~ each member  
20 ~~of the Branch Rail Revitalization Council serving on September 6,~~  
21 ~~1991, shall serve after such date as a member of the Nebraska~~  
22 ~~Railway Council until a successor is nominated, approved, and~~  
23 ~~acting as a member of the Nebraska Railway Council.~~

24 ~~(5)~~ Members of the council who are not employed by the  
25 State of Nebraska may receive a per diem of sixty dollars, not to  
26 exceed six thousand dollars in any one year, and all members of the  
27 council shall be reimbursed for their actual and necessary expenses  
28 as provided in sections 81-1174 to 81-1177. The per diem and

1 reimbursement shall be paid through the Department of Roads, but  
2 not from the Roads Operations Cash Fund.

3 ~~(6)~~ (5) There shall be no liability for damages on the  
4 part of and no cause of action in tort of any nature shall arise  
5 against the council or its agents or employees for any action taken  
6 by any of them in the performance of their powers and duties under  
7 the Light-Density Rail Line Assistance Act, unless the action is  
8 grossly negligent.

9 Sec. 2. This act becomes operative on July 1, 2004.

10 Sec. 3. Original section 74-1413, Reissue Revised  
11 Statutes of Nebraska, is repealed.

12 Sec. 4. Since an emergency exists, this act takes effect  
13 when passed and approved according to law.